

Panaji, 17th July, 2014 (Asadha 26, 1936)

SERIES II No. 16

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

Note:- There are two Extraordinary issues to the Official Gazette, Series II No. 15 dated 10-07-2014 as follows:-

- (1) *Extraordinary dated 11-07-2014 from pages 261 to 262 regarding Notifications from Department of Finance (Revenue & Control Division).*
- (2) *Extraordinary (No. 2) dated 14-07-2014 from pages 263 to 264 regarding Notification from Department of Revenue.*

GOVERNMENT OF GOA

Department of Education, Art & Culture

Directorate of Higher Education

Order

No. 21/2/2013-DHE/Vol.II/1591

Read: This Office Memorandum No. 21/2/2013-DHE/Vol.II/1426 dated 16th June, 2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(17)/2013/580 dated 28-5-2014, Government is pleased to appoint Smt. Charmaine Anne Lewis e Pereira, on temporary basis to the post of Assistant Professor in Geography on an initial pay of ` 15,600/- in the pay band of ` 15,600-39,100+AGP ` 6,000/- and other allowances as admissible from time to time with effect from the date of her joining the post as per the terms and conditions contained in the memorandum dated 16-06-2014 referred to above. Upon her appointment she is posted in Government College of Arts, Science & Commerce, Quepem, Goa.

Smt. Charmaine Anne Lewis e Pereira will be on probation for a period of two years.

The appointment is further subject to verification of character and antecedents.

By order and in the name of the Governor of Goa.

Vinayak R. Kurtikar, Under Secretary (Higher Education).

Porvorim, 7th July, 2014.

Order

No. 21/2/2013/DHE/Vol.I/1592

Read: This Office Memorandum No. 21/2/2013-DHE/Vol.I/1383 dated 06-06-2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(11)/2013/558 dated 19-5-2014, Government is pleased to appoint Smt. Brenda Coutinho, on temporary basis to the post of Assistant Professor in English, on an initial pay of ` 15,600/- in the pay band of ` 15,600-39,100+ AGP ` 6,000/- and other allowances as admissible from time to time with effect from the date of her joining the post as per the terms and conditions contained in the memorandum dated 06-06-2014 referred to above. Upon her appointment she is posted in Government College of Arts, Science & Commerce, Quepem, Goa.

Smt. Brenda Coutinho will be on probation for a period of two years.

The appointment is further subject to verification of character and antecedents.

By order and in the name of the Governor of Goa.

Vinayak R. Kurtikar, Under Secretary (Higher Education).

Porvorim, 7th July, 2014.

Order

No. 25/1/2013/DHE(M)/Vol.II/1422

Read: This Office Memorandum No. 25/1/2013/DHE(M)/Vol. II/592 dated 12th February, 2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(5)/2013/412 dated 24-01-2014, Government is pleased to appoint Shri Heramb Balkrishna Aiya, on temporary basis to the post of Assistant Professor in Maths and Statistics on an

initial pay of ` 15,600/- in the pay band of ` 15,600-39,100+ AGP ` 6,000/- and other allowances as admissible from time to time with effect from the date of his joining the post as per the terms and conditions contained in the memorandum cited above. Upon his appointment he is posted in Government College of Commerce, Borda, Margao, Goa.

Shri Heramb Balkrishna Aiya will be on probation for a period of two years.

The appointment is further subject to verification of character and antecedents.

By order and in the name of the Governor of Goa.

Devidas S. Gaunkar, Under Secretary (Higher Education).

Porvorim, 12th June, 2014.

Order

No. 25/1/2013/DHE(M)/Vol.III/1423

Read: This Office Memorandum No. 25/1/2013/ /DHE(M)/Vol. III/637 dated 17th February, 2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(2)/2013/432 dated 04-02-2014, Government is pleased to appoint Shri Paresh Raghuvir Lingadkar, on temporary basis to the post of Assistant Professor in Commerce (Management) on an initial pay of ` 15,600/- in the pay band of ` 15,600-39,100+ AGP ` 6,000/- and other allowances as admissible from time to time with effect from the date of his joining the post as per the terms and conditions contained in the memorandum dated 17-02-2014 referred to above. Upon his appointment he is posted in Government College of Arts and Commerce, Pernem, Goa.

Shri Paresh Raghuvir Lingadkar will be on probation for a period of two years.

The appointment is further subject to verification of character and antecedents.

By order and in the name of the Governor of Goa.

Devidas S. Gaunkar, Under Secretary (Higher Education).

Porvorim, 12th June, 2014.

Order

No. 25/1/2013/DHE(M)/Vol.I/1420

Read: This Office Memorandum No. 25/1/2013/ /DHE(M)/Vol. I/593 dated 12th February, 2014.

On recommendation of the Goa Public Service Commission as conveyed vide their letter No. COM/1/5/78(4)/2013/416 dated 28-01-2014, Government is pleased to appoint Kum. K. Sangeeta, on temporary basis to the post of Assistant Professor in Economics, on an initial pay of ` 15,600/- in the pay band of ` 15,600-39,100+ AGP ` 6,000/- and other allowances as admissible from time to time with effect from the date of her joining the post as per the terms and conditions contained in the memorandum dated 12-02-2014 referred to above. Upon her appointment she is posted in Government College of Commerce, Borda, Margao, Goa.

Kum. K. Sangeeta will be on probation for a period of two years.

The appointment is further subject to verification of character and antecedents.

By order and in the name of the Governor of Goa.

Devidas S. Gaunkar, Under Secretary (Higher Education).

Porvorim, 12th June, 2014.

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Directorate of Technical Education

Polytechnic Section

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Order

No. 25/4/33/97-DTE/KNS/P1/855

Read: Order No. 25/4/33/97-DTE/KNS/P1/818 dated 03-07-2012.

Approval of Government is hereby conveyed for extension of deputation of Shri K. N. Subhash, Head of Department, Mines and Mine Surveying, Government Polytechnic, Bicholim to Goa College of Engineering, Farmagudi with effect from 03-07-2014 to 30-06-2015.

Shri K. N. Subhash shall discharge the duties as Associate Professor and Head of Mining Engineering Department in Goa College of Engineering, Farmagudi, Ponda-Goa.

Shri K. N. Subhash shall draw his salaries against the post of Assistant Professor (Information Technology) created vide order No. 16/250/Creation & Revival of Posts of GEC/DTE/ /10/2403 dated 12-07-2010 and subsequently

redesignated as Associate Professor vide order No. DTE/ADC/16/2/35/2011/3452 dated 12-07-2011.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 1st July, 2014.

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College Section

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Order

No. 16/189/PF/HGV/DTE/05/947

Read: Memorandum No. 16/139/Fill-Posts/GEC/DTE/PF-IV/848 dated 30-06-2014.

On the recommendation of Goa Public Service Commission conveyed vide their letter No. COM(I)/5/18/(5)/2011/564 dated 20-05-2014, Government is pleased to appoint Shri Hassanali Gulamali Virani on temporary basis to the post of Professor in Electronics and Telecommunication Engineering (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi in the pay scale of 37,400-67,000+ Academic Grade Pay ` 10,000/- with pay protection (as recommended by Goa Public Service Commission) w.e.f. date of joining the post as per the terms & conditions contained in the Memorandum cited above.

The appointment is against the post of Professor in Electronics and Telecommunication Engineering created vide Order No. 16/250/Creation & Revival of Posts of GEC/DTE/10/2403 dated 12-07-2010 and subsequently revived vide Order No. 16/250/Creation & Revival of Posts of GEC/DTE/10/756 dated 18-06-2013 (Non Plan-first post at Sr. No. 12).

Shri Hassanali Gulamali Virani will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim and his character and antecedents have been verified and nothing adverse is reported against him during his selection as Lecturer in Industrial Electronics in Government Polytechnic, Panaji.

By order and in the name of the Governor of Goa.

Bhaskar Nayak, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 8th July, 2014.

Order

No. 16/211/PF/AVN/GEC/DTE/06/912

Read: Memorandum No. 16/139/Fill-Posts/GEC/DTE/PF-IV/730 dated 19-06-2014.

On the recommendations of Goa Public Service Commission conveyed vide their letter No. COM(I)/5/18/(2)/2012/561 dated 19-05-2014, Government is pleased to appoint Shri Akshay Vithal Nigalye on temporary basis to the post of Professor in Mechanical Engineering (Group 'A', Gazetted) at Goa College of Engineering, Farmagudi in the pay scale of 37,400-67,000+ Academic Grade Pay ` 10,000/- with pay protection (as recommended by Goa Public Service Commission) w.e.f. date of joining the post as per the terms & conditions contained in the Memorandum cited above.

The appointment is against the post of Professor in Mechanical Engineering created vide Order No. 16-1-78/WET dated 17-06-1980, revived vide Order No. 16/250/Creation & Revival of Posts of GEC/DTE/10/2405 dated 12-07-2010 and subsequently revived vide Order No. 16/250/Creation & Revival of Posts of GEC/DTE/10/756 dated 18-06-2013 (Non Plan-first post at Sr. No. 2).

Shri Akshay Vithal Nigalye will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim vide their letter No. 4/106/85-H/GMC/2608 dated 04-09-2006. His character and antecedents have been verified and nothing adverse is reported against him as conveyed by the Additional District Magistrate, South Goa District, Margao vide letter No. 36/1/2006/MAG/Part IV/5307 dated 05-10-2006.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 3rd July, 2014.

Order

No. 11/4/96/RLH/PF/DTE/2014/876

Read: Memorandum No. DTE/ADC/11/1/43/2008/PI/3450 dated 04-02-2014.

On the recommendations of Goa Public Service Commission conveyed vide their letter

No. COM/I/5/33/11/2013/358 dated 13-12-2013, Government is pleased to appoint Shri Raveendra Lagamappa Hullolikar on temporary basis to the post of Assistant Professor in Pharmaceutical Chemistry (Group 'A', Gazetted) at Goa College of Pharmacy, Panaji-Goa, with initial pay of ₹ 15,600/- in the pay scale of ₹ 15,600-39,100 plus Academic Grade Pay Rs. 6,000/- w.e.f. from the date of joining as per the terms & conditions contained in the Memorandum cited above.

Shri Raveendra Lagamappa Hullolikar will be on probation for a period of two years.

He should join duties within 30 days of the receipt of this order, failing which this order is liable to be cancelled without further notice.

He has been declared fit by Medical Board, Goa Medical College & Hospital, Bambolim vide letter No. 4/105/85/H/GMC/135 dated 07-03-2014. His character and antecedents have been verified and nothing adverse is reported against him as conveyed by the Dy. Collector & DRO, North Goa, Office of the District Magistrate, North Goa, Magisterial Branch, Collectorate Bldg., Panaji-Goa vide No. 2/6/2013/MAG/VCA/1535 dated 30-06-2014.

By order and in the name of the Governor of Goa.

Vivek B. Kamat, Director & ex officio Addl. Secretary (Technical Education).

Porvorim, 1st July, 2014.

Department of General Administration

Notification

No. 2/2/2010-GAD-III

In exercise of the powers conferred by the explanation to Section 25 of the Negotiable Instruments Act, 1881 (Act 26 of 1881) read with the Government of India, Ministry of Home Affairs Notification No. U-11030/2/73-UTL dated 28-06-1973, the Government of Goa hereby declares Sunday, the 13th July, 2014 (22 Asadha, 1936) as a "Public Holiday" for the Offices situated within the limits of Village Panchayat Harvalem being the "Polling Day" for the General Elections to the Harvalem Village Panchayat in Bicholim Taluka. The aforesaid holiday shall be a "paid holiday", in addition to the holiday indicated in the Notification No. 2/1/2013-GAD-H dated 02-09-2013, published in the Official Gazette,

Series II No. 25 dated 19-09-2013 to the establishments as detailed below:-

- i) industrial workers who are voters of Village Panchayat Harvalem;
- ii) daily wage workers of the Government Departments and State Government Industrial Departments who are voters of Village Panchayat Harvalem;
- iii) commercial and industrial workers of private establishments who are voters of Village Panchayat Harvalem;
- iv) all private establishments in Village Panchayat Harvalem;
- v) daily wage/casual workers who are voters of Harvalem employed in any business, trade, industrial undertakings or any other establishments in the State of Goa.

By order and in the name of the Governor of Goa.

Varsha S. Naik, Under Secretary (GA).

Porvorim, 9th July, 2014.

Department of Home

Home—General Division

Order

No. 2/6/2014-HD(G)

Government of Goa is pleased to constitute a Committee to monitor the day-to-day functioning and oversee all activities related to the forth coming Exposition of sacred relics of St. Francis Xavier, Old Goa to be held from 22nd Nov., 2014 to 4th Jan., 2015, comprising of the following members which will be named as the "Exposition Secretariat"

- | | |
|--|---|
| a) Shri Manohar Parrikar,
Chief Minister | Chairman. |
| b) Shri Francis C. J. A.
D'Souza,
Dy. Chief Minister | Dy. Chairman. |
| c) Shri J. S. S. Rego,
Principal Chief
Engineer, PWD | Commissioner
Exposition
(Infrastructure
and Services-I). |
| d) Shri Sanjith Rodrigues,
Managing Director,
GSIDC & Commissioner
of CCP | Commissioner
Exposition
(Infrastructure
and Services-II). |

- e) Shri Bosco George, Commissioner
Superintendent of (Security).
Police (ACB)
- f) Shri Michael M. D'Souza, Commissioner
Jt. Secretary to CM & (Co-ordination).
Addl. Secretary (Finance)

The Exposition Secretariat shall liaise with all the Government Departments, namely, Police, Transport, Panchayat, Tourism, PWD, etc. and ensure control and smooth conduct, co-ordination and supervision of all the requirement and arrangements for the Exposition, 2014. The Exposition Secretariat/Commission Exposition/s may requisition and avail the services of any authority/agency/Government Department and their Officials, for this purpose.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 4th July, 2014.

Order

No. 2/6/2014-HD(G)

Government of Goa is pleased to constitute a High Powered Co-ordination Committee for Exposition, 2014, comprising of the following Members:

- | | | |
|---|------|------------------|
| 1. Shri Manohar Parrikar,
Chief Minister | | Chairman. |
| 2. Shri Francis C. J. A.
D'Souza,
Dy. Chief Minister | | Co-Chairman (1). |
| 3. Shri Shripad Naik,
Minister of State
(Independent Charge)
(Tourism & Culture),
Govt. of India and Member
of Parliament (Lok Sabha)
(North Goa) | ... | Co-Chairman (2). |
| 4. Shri Ramkrishna
Dhavlikar,
Minister for PWD &
Transport | | Member. |
| 5. Shri Dilip Parulekar,
Minister for Tourism | | Member. |
| 6. Shri Avertano Furtado,
Minister for Labour &
Fisheries | | Member. |
| 7. Smt. Alina Saldanha,
Minister for Forests &
Environment | | Member. |
| 8. Shri Jose Luis Carlos
Almeida,
MLA (Vasco-da-Gama)
& Chairman (KTCL) | | Member. |
| 9. Shri Nilesh Cabral,
MLA (Curchorem) &
Chairman (GTDC) | | Member. |
| 10. Shri Glen Ticlo
J.V.A. e Souza, MLA
(Aldona) & Chairman,
Goa Housing Board | | Member. |
| 11. Shri Michael Vincent
Lobo,
MLA (Calangute) &
Chairman, North Goa
Planning & Development
Agency | | Member. |
| 12. Shri Benjamin Silva, MLA
(Velim) & Chairman of Goa
Khadi and Village
Industries Board | | Member. |
| 13. Shri Mauvin H. Godinho
MLA (Dabolim) | | Member. |
| 14. Shri Pandurang
Madkaikar,
MLA (Cumbarjua) | | Member. |
| 15. Shri Francisco
(alias Micky) Pacheco,
MLA (Nuvem) | | Member. |
| 16. Shri Aleixo R. Lourenco,
MLA (Curtorim) | | Member. |
| 17. Smt. Jennifer A.
Monserrate,
MLA (Taleigao) | | Member. |
| 18. Shri Caetano R. Silva,
MLA (Benaolim) | | Member. |
| 19. Chief Secretary | | Member. |
| 20. Director General
of Police | | Member. |
| 21. Shri J.S.S. Rego,
Principal Chief
Engineer, PWD &
Commissioner
(Infrastructure &
Services-I),
Exposition Secretariat | | Member. |
| 22. Shri Sanjith Rodrigues,
Managing Director
GSIDC & Commissioner of
CCP & Commissioner
(Infrastructure & Services-II),
Exposition Secretariat | | Member. |

23. Shri Bosco George,
Superintendent of
Police (ACB) &
Commissioner (Security),
Exposition Secretariat Member.
24. Shri Michael M. D'Souza,
Jt. Secretary to CM & Addl.
Secretary (Finance); &
Commissioner (Co-ordination),
Exposition Secretariat Member.
25. Director of Transport Member.
26. Collector (North) Member.
27. Director of Tourism Member.
28. Superintending
Archaeologist,
Archaeological Survey
of India, Old-Goa Member.
29. Fr. Valerian Vaz,
Financial Administrator,
Archdiocese of Goa &
Daman, Paco
Patriarchial, Altinho,
Panaji Member.
30. Fr. Anthony Fernandes,
Executive Secretary,
Diocesan Pastoral
Secretariat, Institute
Nossa Senhora de Piedade,
Panaji Member.
31. Fr. Alfredo Vaz, Convenor,
Exposition Committee-2014,
& Parish Priest of
Se Cathedral, Old Goa Member.
32. Fr. Savio Barretto, Rector,
Bom Jesus Basilica,
Old Goa Member.
33. Sarpanch, Village
Panchayat of Se
Old Goa. Member.

The High Powered Co-ordination Committee shall have full powers to decide in the matter and execute any kind of work related to the Exposition so as to enable the smooth conduct of Exposition-2014. Subject to the approval of the Cabinet, all financial and administrative powers relating to execution of any kind of work/infrastructure facilities and to provide any other facilities as required for the Exposition-2014, shall vest with

the Chairman of the Exposition Secretariat and any decision in this respect shall be final.

By order and in the name of the Governor of Goa.

Neetal P. Amonkar, Under Secretary (Home).

Porvorim, 4th July, 2014.



Department of Information and Publicity

Order

No. DI/INF/R-DAY-TAB/2014-15/1166

Government is pleased to constitute a Committee under the Chairmanship of Hon'ble Chief Minister Shri Manohar Parrikar comprising of the following to select the design of tableau for presentation at Republic Day Parade, 2015:

- | | | |
|---|---|-----------------------|
| 1. Shri Manohar Parrikar,
Chief Minister | — | Chairman. |
| 2. Shri Milind Naik,
Minister for Information
and Publicity | — | Member. |
| 3. Shri Damu Naik,
Vice-Chairman, ESG | — | Member. |
| 4. Chief Secretary | — | Member. |
| 5. Secretary, Information &
Publicity | — | Member. |
| 6. Shri Sanjay Harmalkar,
Artist & Chairman, I.M.B.,
Camurlim, Bardez | — | Member. |
| 7. Shri Dayanand Bhagat,
Artist, Marcel-Goa | — | Member. |
| 8. Shri Datta B. Kholker,
Dy. Chairman, Planning
Commission | — | Member. |
| 9. Shri J. S. S. Rego,
Principal Chief Engineer,
PWD | — | Member. |
| 10. Shri Mahesh Vengurlekar,
Principal, Goa College
of Art | — | Member. |
| 11. Shri Prasad V. Lolayekar,
Director of Art & Culture | — | Member. |
| 12. Director of Information
& Publicity | — | Member.
Secretary. |

The Committee will be entrusted with the following works:

1. Scrutinize designs received from independent artists, art students and tableau contractors.

2. Supervise the fabrication of the float and oversee the presentation.
This order comes into force with immediate effect.

By order and in the name of the Governor of Goa.

Sandip Jacques, Director & ex officio Addl. Secretary (Information & Publicity).

Panaji, 3rd July, 2014.



Department of Labour

Order

No. 24/15/2013-Lab-ESI/656

In pursuance to letter No. U-16/18/1/6/07-Med. I dated 23-07-2008 of the Dy. Medical Commissioner, E.S.I. Corp., New Delhi, for improving the overall functioning of the E.S.I. Hospital and its attached Dispensaries, the Governor of Goa is pleased to constitute the Hospital Development Committee for the ESI Hospital, Margao, consisting of the following persons:

- | | |
|--|--|
| 1. Dr. Vishwajit V. Faldesai,
Sr. Ortho Surgeon of
E.S.I. Hospital | — Chairman. |
| 2. Dr. Martha Fernandes,
Insurance Medical Officer | — Convener. |
| 3. Shri Loyola Rodrigues,
President,
Margao Industrial Estate
Small Scale Industries
Association | — (i) Employer's
Representative. |
| 4. Shri Gaurish Dhond,
President of Goa Hotel
and Restaurant
Association | — (ii) Employer's
Representative. |
| 5. Shri Prasanna Utagi,
President,
AITUC Goa State
Committee | — (i) Employees'
Representative. |
| 6. Shri Ankush Bagkar,
General Secretary
Goa Raj Mahasangh
G-5, Machado Appts.,
Ponda | — (ii) Employees'
Representative. |
| 7. Office Superintendent | — Staff Representative. |
| 8. Deputy Labour
Commissioner | — Representative
of State Labour
Department. |

9. Shri Sameer Keny,
Executive Committee
Member Goa State
Industries Association

— Local Member
from ESI/
Regional Board.

10. Manager, Branch Office

— ESI Corporation,
Margao.

The Committee shall meet once in every two months.

By order and in the name of the Governor of Goa.

Meena Priolkar, Under Secretary (Labour).

Porvorim, 24th September, 2013.

Notification

No. 28/1/2013-Lab/345

The following award passed by the Industrial Tribunal and Labour Court, at Panaji-Goa on 07-03-2013 in reference No. IT/84/07 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

D. S. Morajkar, Under Secretary (Labour).

Porvorim, 7th May, 2013.

THE LABOUR COURT-II GOVERNMENT OF GOA AT PANAJI

**(Before Shri Suresh N. Narulkar, Hon'ble
Presiding Officer)**

Case No. Ref. IT/84/07

Shri Natividade Fernandes,
H. No. 137, Anus,
Nuvem, Salcete-Goa

— Workman/Party I

V/s

M/s Ramesh Hotels &
Resorts Pvt. Ltd.,
Majorda Beach Road,
Majorda, Salcete-Goa

— Employer/Party II

Party I/Workman represented by Shri Subhash Naik Jorge.

Party II/Employer represented by Adv. Shri M. S. Bhandodkar.

Panaji, dated: 7-3-2013.

AWARD

1. In exercise of the powers conferred by Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa, by Order dated 23-10-2006, bearing No. 28/29/2006-LAB/817 referred the following dispute for adjudication by this Labour Court-II of Goa.

- “(1) Whether Shri Natividade Fernandes, Gardener, can be construed as a “Workman” as per Sec. 2 (s) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947)?
- (2) If the answer to the above Issue No. (1) above is in the affirmative, then, whether the severance of the Workman and Employer relationship between Shri Natividade Fernandes and the Management of M/s Ramesh Hotels & Resorts Pvt. Limited, Majorda, Salcete, Goa with effect from 14-06-2005, is on account of termination of services of Shri Natividade Fernandes, or on mutually agreed settlement between them?
- (3) If the termination of services of Shri Natividade Fernandes, Gardener, is not legal and justified, what relief he is entitled to?”

2. On receipt of the reference, a case was registered under No. IT/84/07 and registered A/D notice was issued to the Parties. In pursuance to the said notice, the Parties put in their appearance. The Workman/Party I (for short ‘Workman’) filed his Statement of Claim on 05-12-2007 at Exb. 08. The facts of the case in brief as pleaded by the Workman are that he was initially employed as a ‘Gardener’ with M/s Maharani Guest House. He stated that the property of the said Maharani Guest House was transferred to the Employer Company. He stated that his services came to be transferred to the Employer after the dissolution of the firm M/s Maharani Guest House. He stated that since the year 1996, he was working as a ‘Gardener’ with the Employer. He stated that he was working alongwith other co-workers namely, Mr. Alex Calado, Mr. Menino Costa, Mr. Roque Ferrao and Mr. Andrew Vaz etc. He stated that one Mr. Joe Pereira was the Manager of the Employer at the relevant period. He stated that on 10-06-2005, he was issued a letter dated 10-06-2005 signed by one Shri S. V. Balaram claiming to be a constituted Attorney of the Employer having its registered office at 3, Ruia Park, Juhu Beach, Mumbai stating that his services stands terminated w.e.f.

14-06-2005. He stated that it was alleged in the said letter that he was working as a domestic servant. He stated that it was also alleged that the Employer had lost confidence in him and that restructuring is being undertaken and hence his services are not required. He stated that the services of the other co-workers namely, Mr. Alex Colado, Mr. Roque Ferrao, Mr. Menino Costa and Mr. Andrew Vaz also came to be terminated at the same time. He stated that the services of some of the co-workers were terminated on the letter head of the Employer and some of the co-workers were terminated on the letter head of M/s Rammi Khanna & Company Pvt. Ltd., although they were working for the Employer. He stated that the directors of both the said companies are same. He stated that prior to their termination of services, they had lodged a police complaint at Verna Police Station alleging that one of the director of the Employer namely, Mr. Ramesh Khanna was involved in a rape incident in the hotel premises. He stated that based on the said complaint, the Verna Police conducted an enquiry and the report of the said enquiry was communicated to the Secretary, Governor of Goa vide letter dated 14-09-2005 of the Superintendent of Police, H. Q. Panaji-Goa. He submitted that the Directors of the Employer namely, Mr. Ramesh Khanna, Ms. Andree Khanna, Mr. Manish Khanna and Mr. Ramesh Khanna (Jr.) resigned as the Directors of the Employer Company w. e. f. 12-06-2005 and Mr. Sanjay Vazirani, Ms. Shveta Vazirani, Mr. Korangrapady Prakash Shetty and Ms. Asha Prakash Shetty have been admitted as its Directors. He submitted that the Employer has sold the said hotel on 11-06-2005 to the aforesaid persons who came to acquire all the shares of the Employer Company.

3. He submitted that aggrieved by the decision of the Employer to terminate his services, he raised a demand with the Employer demanding his reinstatement in services with full back wages and continuity in services vide his letter dated 21-06-2005. He stated that as the Employer did not accept his demand, he raised a dispute before Deputy Labour Commissioner, Margao for conciliation which ended in failure.

4. He contended that he was employed as a “Gardener” with the Employer, since 1996 till the date of his termination i.e. 14-06-2005. He submitted that the termination of his service is in violation of mandatory provisions of Sec. 25-F, 25-G & Sec. 25-H of the I. D. Act, 1947. He therefore contended that the termination of his services is illegal and

unjustified. He submitted that Mr. S. V. Balaram has no authority to terminate his service as he is neither the owner of the Employer nor employed with the Employer or authorized by the Employer to terminate his services. He submitted that as the said complaint was lodged by them, their services came to be terminated w. e. f. 14-09-2005. He submitted that the action of termination of his services is clearly malafide, vindictive and by way of victimization besides being illegal and unjustified.

5. He submitted that since the date of his termination of his services, he is unemployed and has no source of income. He submitted that he is depending on his close family members and relations for support during this difficult period. The Workman therefore prayed for his reinstatement in service with full back wages and continuity in services.

6. The Employer filed its Written Statement on 24-03-2008 at Exb. 11. The Employer controverted the claim of the Workman preliminarily on the ground that the Party I was working as a 'Garden Helper' at the residential bungalow and the said place cannot be constituted as a commercial or industrial establishment or a factory or an establishment under Shops & Establishment Act as at no point of time any industrial, commercial, manufacturing or any other business activities were carried out at the said residential bungalow. The Employer submitted that the said place where the Party I was working was exclusively used for the residential purpose and therefore, the same cannot be termed as 'industrial establishment'. The Employer therefore submitted that the person working at the residential bungalow as domestic servant cannot be termed as a "Workman" as defined u/s 2(s) of the I.D. Act, 1947. The Employer submitted that the Government has failed to apply its mind while referring the present reference mechanically without asserting whether there exist an employer-employee relationship or that whether there exist an industrial dispute. The Employer submitted that the reference itself is bad-in-law and not maintainable. The Employer submitted that the Party I, having accepted all his dues from the Employer, nothing remains in the matter and no dispute of whatsoever nature exists.

7. The Employer stated that for the purpose of maintenance and looking after the said bungalow, its garden, house-keeping work and for cooking purpose etc., it had engaged certain

domestic servants/helpers. The Employer stated that the Party-I was engaged as a domestic servant to work in the said garden as 'Garden Helper'. The Employer submitted that the Party I being a domestic worker, there was no employer-employee relationship between themselves and the Party I. The Employer stated that there were no specific rules, regulations or working hours for the said domestic servant. The Employer stated that the Party I along with other workers was performing any work connected to the said bungalow, assigned to them by the manager of the said bungalow. The Employer submitted that the owner of the bungalow lost the confidence in him as the Party-I along with other co-worker had filed a false, defamative, and mischievous complaint against the director at Verna Police Station at the behest of Mr. Jose Pereira alias Joe Pereira, tarnishing the image of the owner and its Director and its authorized representative. The Employer stated that a copy of the said false complaint was forwarded to the Office of the Governor of Goa and other authorities. The Employer stated that the police authorities made thorough investigation into the said complaint and submitted their report to the Secretary, Governor of Goa. The Employer stated that the said police authority clearly revealed amongst other things that the Management due to the financial problems wants to dispose off the said property after clearing all the employees. The Employer stated that the aggrieved workers had negotiation with the Management under the leadership of Joe Pereira. The Employer stated that Shri Joe Pereira instigated all the workers and submitted the present petition on account of his illegal gain. The Employer submitted that the Party I being a domestic servant, the provisions of the I. D. Act, 1947 are not applicable to him while dispensing his services or otherwise. The Employer stated that it has terminated the services of the Party I by paying an amount equivalent to notice pay, retrenchment compensation, gratuity, ex-gratia, etc., on humanitarian ground though he was not entitled to legally or otherwise. The Employer stated that the Party I had voluntarily accepted the said payment and severed the relation as domestic servant. The Employer stated that it has sold the said property to the third party where the Party I was working. The Employer stated that the bungalow where the Party I was working belongs to its Director and the said working place of the Party I has no link or connection to any manufacturing, commercial or industrial activities. The Employer denied that the Party-I was working

as a 'Gardener' with them. The Employer submitted that since the Party I is neither a 'Workman' nor dispute raised by him is an 'industrial dispute' within the meaning of the provisions of the I. D. Act, the question of violation of any of the provisions of the said act including Sec. 25-F, 25-G & 25-H does not arise. The Employer denied the overall case of the Party I as pleaded in his statement of claim filed in the present proceedings and prayed for dismissal of the present reference issued by the Government.

8. Thereafter, the Party I filed his Re-joinder on 23-04-2008 at Exb-12. The Party I by way of his Re-joinder reiterates and confirms all the submissions and averments made by him in his Claim Statement to be true and correct and denies all the statements and averments made by the Employer in its Written Statement which are contrary and inconsistent with the statements and averments made by him. The Party I submitted that Mr. S. V. Balaram has no authority as well as locus standi to sign and present the written statement on behalf of the Employer nor does he holds a valid power of attorney to represent the Employer in the present reference and as such the matter ought to be proceeded as if no written statement has been filed by the Employer.

9. Based on the pleadings filed by the respective Parties in the present proceedings, this Court framed the following issues on 17-07-2008 at Exb-15. The Issue No. 2-A has been re-casted vide order dated 21-08-2012 disposing off an application of the Party I dated 23-07-2012.

1. Whether the Workman/Party I proves that he is a "Workman" as defined u/s 2 (s) of the I. D. Act, 1947?
2. Whether the Workman/Party I proves that there was employer-employee relationship between him and the Party II as contemplated under the Industrial Disputes Act, 1947?
- 2A. Whether the Workman/Party I proves that Shri S. V. Balaram has no authority as well as locus standi to sign and present the Written Statement on behalf of the Employer?
3. Whether the Workman/Party I proves that his termination of services w.e.f. 14-06-2005 by the Party II is illegal and unjustified?
4. Whether the Employer/Party II proves that the present Order of reference issued by the Government of Goa is bad-in-law?

5. Whether the Workman/Party I proves that he is entitled for any relief?

6. What Award?

10. My answers to the aforesaid issues are as under:

Issue No. 1	In the Affirmative.
Issue No. 2	In the Affirmative.
Issue No. 2-A	In the Negative.
Issue No. 3	In the Affirmative.
Issue No. 4	In the Negative.
Issue Nos. 5 & 6	As per final Order.

REASONS

11. *Issue No. 2A:* I am deciding the Issue No. 2A first prior to the Issue Nos. 1 & 2 as the said issue No. 2 A decides the very authority of Shri S. V. Balaram to sign and present the Written Statement on behalf of the Employer.

I have heard the oral arguments of the Ld. Representative Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

I have carefully perused the entire records of the present case. I have also carefully considered the oral as well as written submissions made by Ld. Rep. Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

12. The Party I challenged the very authority of Shri S. V. Balaram who has signed the Written Statement as constituted attorney of the Employer in the present proceedings by alleging that Shri S. V. Balaram has no authority as well as locus standi to sign and present the written statement on behalf of the Employer and also to represent the Employer in the present proceedings.

13. The Workman did not lead any material evidence in support of its pleadings. On the contrary, the Employer, in order to prove its case, examined Shri S. V. Balaram and also produced on record a copy of the power of attorney dated 03-01-2002 (Exb. E/1) as well as a copy of the resolution passed in the meeting of the Board of Directors of the Employer Company held on 03-01-2002 (Exb. E/2) in support of its oral evidence. On carefully perusal of a copy of the said resolution passed in the meeting of the Board of Directors of the Employer Company held on 03-01-2002 (Exb. E/2), it reveals that the Employer Company in its Board of Directors' Meeting held on 03-01-2002 resolved to authorize Shri S. V. Balaram as an Attorney to sign and issue necessary appointment and termination letters of

the employees, laborers and consultants of the Company and to attend day-to-day matters of the Company including appointment and termination letters of the employees, laborers and consultants of the Company, etc. Further on carefully perusal of the said Power of Attorney dated 03-01-2002 (Exb. E/1) issued to Shri S. V. Balaram indicates that he is/was duly authorized to sign and issue necessary appointment and termination letters of the employees, laborers and consultants of the Company, to attend day-to-day matters of the Company including appointment and termination letters of the employees, laborers and consultants of the Company and also to represent in legal matters and appoint attorney/advocate in this regard. Thus, the said Power of Attorney as well as a copy of resolution dated 03-01-2002 on record clearly indicates that Shri S. V. Balaram is duly authorized to act on behalf of the Employer Company to perform certain acts stated therein. The meaning of the term “represent” is very wide and it includes signing of the Written Statement in the present proceedings. Thus, I do not find any merits in the submissions of Ld. Rep. Shri Subhash Naik that Shri S. V. Balaram has no authority to sign and present the Written Statement on behalf of the Employer and/or to represent the Employer in the present proceedings. It is therefore held that Shri S. V. Balaram is duly authorized to represent the Employer Company. The issue No. 2 A is therefore answered in the negative.

Issue Nos. 1 & 2: I have heard the oral arguments of the Ld. Representative Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

14. Ld. Representative Shri Subhash Naik representing the Party I during the course of his oral argument submitted that the Party I has produced on record an experience certificate (Exb. W/1 issued by M/s Ramesh Hotels and Resorts Pvt. Ltd. in support of its oral evidence that he was working as ‘Gardener’ with the Employer Company, since the year 1999 till the date of his termination w.e.f. 14-06-2005. He submitted that the said oral as well as documentary evidence adduced by the Party I on record clearly indicates that the Party I was working as gardener and performing the duties such as planting, weeding, trimming, shaping trees etc., and was also growing orchids and manuring coconut trees as well as saplings. He therefore submitted that the predominant nature of duties and responsibilities performed by the Party I are semi-skilled in nature and as such the

Party I is a “Workman” within the meaning of sec. 2(s) of the I. D. Act, 1947. He submitted that the Employer Company is an ‘industry’ within the meaning of Section 2(j) of the I.D. Act, 1947. He submitted that there exists an employer-employee relationship between the Employer and himself. He relied upon a decision in the case of **Madhya Pradesh Bhavan v/s Shri Shiv Kumar Tiwari and Anr. of Hon’ble High Court of Delhi**.

15. On the contrary, Ld. Adv. Shri M. S. Bandodkar, representing the Employer, during the course of his oral argument submitted that the Party I raised the present dispute pertaining to his non-employment by claiming to be a “Workman” within the meaning of Section 2 (s) of the I.D. Act, 1947. The burden to prove that he is a ‘Workman’ as defined u/s 2 (s) of the I. D. Act, is on the Party I. He submitted that the Party I was working as ‘garden helper’ at the residential bungalow of Mr. Ramesh Khanna, the Director of the Employer Company. He submitted that the said residential bungalow is neither commercial nor industrial establishment nor factory or registered under the G. D. D. Shops and Establishment Act, 1973. He submitted that no industrial or commercial activities were being carried on in the said residential bungalow. He submitted that all the said persons were working at the said residential bungalow as domestic servants and not a “Workman” as defined u/s 2 (s) of the I. D. Act, 1947. He submitted that there does not exist an Employer-Employee relationship between the Employer and the Party I within the meaning of the said Act. He submitted that the reference is therefore bad-in-law. He relied upon a decision in the case of **Shantaram Pandurang Jadhav and ors. v/s Kiran Industrial Premises Co-operative Society Ltd., of Hon’ble High Court of Bombay reported in 2007 III CLR 418**.

I have carefully perused the entire records of the present case. I have also carefully considered the oral as well as written submissions made by Ld. Rep. Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

16. The Employer resisted the claim of the Party I by alleging that the Party I is not a “Workman” within the meaning of Sec. 2 (s) of the I. D. Act, 1947. The burden to prove that he is a “Workman” as defined under Section 2(s) of the I. D. Act, 1947, is on the Party I. It is therefore necessary to refer to the provisions of Sec. 2 (s) of the I. D. Act, 1947 which defines the term “Workman”.

“Section 2 (s), “Workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied and for the purposes of any proceedings under this act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or a consequence of that dispute or dismissal, discharge or retrenchment has led to that dispute, but does not include any such person

- (1) who is subject to the AIR Force Act, 1950 (45 of 1950) or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or;*
- (2) who is employed in the police service or as an Officer or other employee of a prison or;*
- (3) who is employed mainly in a managerial or administrative capacity;*
- (4) who being employed in a supervisory capacity draws wages exceeding Rs. 1,600/- per mensem or exercises either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”*

17. Thus from the plain reading of definition of “Workman” under the I. D. Act, 1947, it appears that in order to prove the concerned employee is a ‘Workman’ or not within the meaning of the said Act, he/she must prove that he/she was employed in an Industry as defined under the said Act and secondly he/she was employed to perform any of the work such as to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.

18. In the case in hand, the evidence on record indicates that the Party I was employed with the Employer Company at least from the year 1999 till the date of termination of his service w.e.f. 14-06-2005. The Party I was designated as ‘Gardner’. The Party I was performing the duties such as planting, weeding, trimming, shaping trees, etc. The evidence on record indicates that the Party I was also growing orchids and manuring coconut trees as well as saplings. The Party I was paid his wages/salary by the Employer on monthly basis. Thus the Party I was employed by the Employer to perform the work predominantly of manual and semi-skilled in nature.

19. The evidence on record indicates that the Party I was working in the garden and surrounding area of the residential bungalow of the Employer Company existing in the property

bearing survey No. 41, sub-division 1 & 2 of village Uttorda, Majorda, Salcete-Goa, totally forming an area of 41,800 sq. mts. The Employer did not dispute that it is an ‘industry’ within the meaning of Section 2(j) of the I.D. Act, 1947. The Employer however contended that the place where the Party I was working as “Gardener”, cannot be constituted as commercial or industrial establishment or a factory or an establishment under the Shops and Establishment Act as at no point of time any industrial, commercial, manufacturing or any other business activities were carried out at the said residential bungalow. The Party I is therefore not an employee employed to perform work in any industry and as such he is not a “Workman” with the meaning of Section 2(s) of the I. D. Act, 1947.

20. In the case of **Punjab Sugar Mills Co. Ltd., v/s State of U.P. and Ors., reported in AIR 1960 ALL 444**, the Hon’ble High Court of Allahabad has held that “the six employees working at the officer’s quarters were held to be ‘Workman’ within the meaning of section 2(s) of the I. D. Act, 1947 by observing that ‘in our view the preposition “in” before “any industry” in the definition of ‘Workman’ has been used by the Legislature to signify the inclusion of persons employed and not their position or location, in the industry as a whole. According to the shorter Oxford English Dictionary (third edition) the preposition “in” also means “in reference to”. Having regard to the Legislative object of preventing strikes and lock-out and maintaining supplies in the country, we are of opinion that the expression “employed in any industry” should be construed to mean employment in reference to any industry, business or trade.”

21. Applying the law laid down by the Hon’ble High Court of Allahabad in its aforesaid judgment, in the case in hand, the Party I was performing the duties of manual and semi-skilled in nature. The Party I was paid his wages/salary by the Employer. The contention of the Employer that the place where Party I was working cannot be constituted as commercial or industrial establishment or a factory or an establishment under the Shops and Establishment Act as at no point of time any industrial, commercial, manufacturing or any other business activities were carried out at the said residential bungalow, is therefore without any merits as the Employee working in any industry means employed in reference to any industry. The Party I is therefore a ‘Workman’ within the meaning of Section 2 (s) of the I. D. Act, 1947. It is therefore held that the Party I is a “Workman” within the meaning of Section 2(s) of the I. D. Act, 1947.

22. Ld. Rep. Shri Subhash Naik representing the Party I relied upon a decision of Hon'ble High Court of Delhi in the case of **Madhya Pradesh Bhavan v/s Shri Shiv Kumar Tiwari and anr. reported in (2006) II LLJ 932**. In the said case before the Hon'ble High Court of Delhi, the Bhavan was established to provide free lodging and boarding facilities essentially to V.I.Ps, Ministers, Officers/Officials of the Government of Madhya Pradesh visiting Delhi or New-Delhi for official work. The Respondent was employed in the Bhawan as air-conditioning plant operator on daily rate basis. The Hon'ble High Court has held that *"the function of the M. P. Government in the activities and day to day administration of M. P. Bhawan cannot held to be sovereign function, since some of the guests were charged with service charges towards boarding and lodging facilities rendered to them. These functions if carried by a private agencies/person would have been an industry within the meaning of the I. D. Act. Element of trade and business can be traced in the activities of M.P. Bhawan. So I am constraint to hold that the activities of the M.P. Bhawan were an industry within the meaning of I. D. Act."*

23. The facts of the case in hand is totally different then the aforesaid case before the Hon'ble High Court of Delhi, hence the principle laid down in the aforesaid decision of Hon'ble High Court of Delhi is not applicable to the case in hand.

24. Ld. Adv. Shri M. S. Bandodkar representing the Employer during the course of his arguments relied upon a decision in the case of **Shantaram Pandurang Jadhav and ors. v/s Kiran Industrial Premises Co-operative Society Ltd., reported in 2007 III CLR 418 of Hon'ble High Court of Bombay**. In the said case before the Hon'ble High Court of Bombay, the Respondent Society was guilty of unfair labour practice as urged in the complaint filed by the Appellant before the Industrial Court. In Writ Petition filed by the Respondent, challenging the Order of Industrial Court, Ld. single Judge held that complaint is not maintainable as the Respondent Society is not an "Industry". In an appeal filed by the Appellant, the Hon'ble High Court of Bombay upheld the Order of Ld. single Judge.

Thus, the facts of the aforesaid case are different, then the case in hand, hence the principle laid down by the Hon'ble High Court of Bombay in its aforesaid case is not applicable to the case in hand.

25. The Employer further contended that there do not exist employer-employee relationship

between themselves and the Party I. The term "Employer" has been defined under section 2(g) of the I. D. Act, 1947 and it means—

- (i) in relation to an industry carried on by or under the authority of any department of (the Central Government or a State Government) the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;
- (ii) in relation to an industry carried on by or on behalf of a local authority, the Chief Executive Officer of that authority.

26. In the case in hand, the Employer Company is a private limited company and is represented by its Directors. The Employer Company has also appointed a Manager to manage, administer and look after its affairs. While deciding the issue No. 1 hereinabove, I have come to the conclusion and held that the Party I is a "Workman" within the meaning of Section 2(s) of the I.D. Act, 1947. Thus there exist a jural relationship of master-servant between the Employer Company and the Party I. Hence it is held that there exist an employer-employee relationship between the Employer and the Workman. The issue Nos. 1 and 2 are therefore answered in the affirmative.

Issue No. 3: I have heard the oral arguments of the Ld. Representative Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandodkar appearing for the Employer.

27. Ld. rep. Shri Subhash Naik representing the Workman during the course of his oral argument submitted that as the Party I alongwith other workers had lodged a complaint against one of the Director of the Employer namely, Mr. Ramesh Khanna for having been allegedly involved in a rape incident in the hotel premises prior to their termination of service, their services have been terminated. He therefore submitted that the termination of services of the Workman is malafide, vindictive and by way of victimization. He submitted that Shri S. V. Balaram has no authority to terminate the services of the Workman as he is neither owner of the Employer nor employed with the Employer Company nor authorized by the Employer to terminate his services of the Workman. He submitted that the termination of services of the Workman is therefore illegal and unjustified being in violation of the mandatory provisions of Sections 25F, 25G and 25H of the I. D. Act, 1947.

28. On the contrary, Ld. Adv. Shri M. S. Bandodkar representing the Employer Company, during the course of his oral arguments submitted

that the Party I challenged his order of termination as illegal and unjustified by alleging that it is in violation of Sections 25-F, 25-G and 25-H of the I.D. Act, 1947. He submitted that the Employer has produced on record a copy of power of attorney (Exb. E/1) as well as a copy of minutes of the meetings of the Directors of the Employer Company held on 03-01-2002 (Exb. E/2). He submitted that a copy of the said power of attorney (Exb. E/1) as well as a copy of minutes of the meetings of the Directors of the Employer Company held on 03-01-2002 (Exb. E/2) clearly shows that Shri S.V. Balaram was duly authorized by the Employer Company to perform certain acts as stated in the said instrument of Power of Attorney. He submitted that the Employer Company has sold the said landed property to the third party and thereafter terminated the services of all its Workman working at the said place in terms of section 25FF of the I. D. Act, 1947. He submitted that since the Workmen have lodged a false complaint against its one of its Directors namely, Shri Ramesh Khanna, it has lost confidence in the Workmen. He therefore submitted that its action in terminating the services of the Workman is just, legal and bonafide and there is no illegality in it.

I have carefully perused the entire records of the present case. I have also carefully considered the oral as well as written submissions made by Ld. Rep. Shri Subhash Naik appearing for the Party I as well as Ld. Adv. Shri M. S. Bandonkar appearing for the Employer.

29. Being aggrieved by the order of his termination dated 10-06-2005 issued by the Employer, the Workman challenged the same in the present reference by contending that the said order of termination issued to him is illegal and unjustified as Shri S. V. Balaram has no authority to terminate his service and that the said order of termination is in violation of Sections 25-F, 25-G and 25-H of the I. D. Act, 1947. The Workman further contended that as they have lodged a complaint against one of the Directors of the Employer namely, Shri Ramesh Khanna, their services have been terminated w. e. f. 14-06-2005 by way of victimization and the termination of his service is therefore vindictive and malafide.

30. The Workman challenged his Order of Termination from service on the ground that Shri S. V. Balaram has no authority to terminate his service as neither he is the owner nor employed by the Employer or authorized by the Employer to terminate his service. The Workman also led oral

evidence in support of his aforesaid contention. In rebuttal, the Employer has produced on record a copy of resolution dated 03-01-2005 (Exb. E/1) as well as a copy of Power of Attorney issued to Shri S. V. Balaram (Exb. E/2) in support of its oral evidence that Shri S. V. Balaram is duly authorized to terminate the services of its employees including services of the Party I. The said oral as well as documentary evidence adduced by the Employer on record clearly indicates that Shri S. V. Balaram is duly authorized to terminate the services of the employees of the Employer Company including the services of the Workman. I, therefore do not find any merits in the submission of the Ld. rep. Shri Subhash Naik that Shri S. V. Balaram has no authority to terminate his service as neither he is owner nor employed by the Employer or authorized by the Employer to terminate his service.

31. The Termination Order issued to the Workman at Exb. W/2 indicates that the services of the Workman has been terminated by alleging that “considering the re-structuring is being undertaken and otherwise also”, besides loss of confidence. The term “re-structuring” implies termination of service being surplus i.e. on account of retrenchment. The Employer is therefore mandatorily required to comply with the provisions of Sections 25-F, 25-G and 25-H of the I. D. Act, 1947. The Termination Order at Exb. W/2 indicates that the Workman was offered/paid compensation of one month notice pay of Rs. 2,350/-, retrenchment compensation for 15 days per year of service amounting to Rs. 12,650/-, gratuity for 15 days per year of service amounting to Rs. 12,450/- and ex-gratia amount of Rs. 7,050/-. The aforesaid evidence on record indicates that the Employer has complied with Section 25-F of the I. D. Act, 1947.

32. Section 25-G of the I. D. Act, 1947 provides for procedure for retrenchment. In terms of Section 25-G of the I. D. Act, 1947, where any workman in an industrial establishment who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the Employer and the Workman in this behalf, the Employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the Employer retrenches any other Workman. The Workman has however could not produce on record any evidence to show that the Employer, while terminating the services of the Workman, violated the provisions of Section 25-G of the I. D. Act, 1947.

33. Similarly, Sec. 25-H of the I. D. Act, 1947 provides for re-employment of retrenched workman. In terms of 25-H of the I. D. Act, 1947 where any workmen are retrenched, and the Employer proposes to take into his employ any person, he shall, in such manner as may be prescribed, give an opportunity (to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen) who offer themselves for re-employment shall have preference over other persons. Similarly, the workman could not be able to produce on record any evidence to show that after termination of their services, the Employer has employed any other employee in their place of work. Thus, in the absence of any evidence on record, it cannot be said that the Employer has violated the provisions of Section 25-H of the I. D. Act, 1947.

34. The order of termination issued to the Workman at Exb. W/2 on record indicates that the services of the Workman have been terminated by the Employer also by alleging loss of confidence in him. It appears from the Written Statement filed by the Employer in the present proceedings, the Employer tried to justify its Order of Termination issued to the Workman by alleging that the owner of the bungalow lost the confidence in him as the Party I along with other co-worker had filed a false, defamative, and mischievous complaint against the director at Verna Police Station at the behest of Mr. Jose Pereira alias Joe Pereira, tarnishing the image of the owner and its Director and its authorized representative.

35. *The Hon'ble Supreme Court of India in its case of Chandulal v/s The Management of Pan American World Airways, reported in 1985 II LLJ 181, has held that "the want of confidence in an employee points out to an adverse facet in the employee's character as the true meaning of the allegation is that the employee has failed to come up to the expected standard of conduct which has given rise to a situation involving loss of confidence."*

36. In its another case of **Management of B. A. Pvt. Ltd. v/s A. C. W. S. Compensation II, MDS and another, reported in 1988 1LLJ 203**, the Hon'ble Apex Court has held that *"the expression loss of confidence used in the order of termination does throw adverse imputation against the employee and the order ex-facie makes it clear that the order of termination of services was founded on misconduct."*

37. In another case of **Spencer and Company Ltd. Madras v/s B. Vajravelu and anr.** the Hon'ble Apex Court has held that *"-----the imputation of loss of confidence amounts to imputation or charge of misconduct and termination of services on that account would amount to punishment inflicted by way of disciplinary action.---*"

Thus, the term "loss of confidence" implies the punishment inflicted by way of disciplinary action and the term "re-structuring" implies termination of service being surplus i.e. on account of retrenchment. Thus the term "loss of confidence" and "re-structuring" is different from each other. The former denotes the termination of services by way of punishment inflicted by way of disciplinary action and the later denotes the termination of services otherwise than disciplinary action.

38. The Workman contended that as he along with other workmen had lodged a police complaint against one of the Directors of the Employer Company namely, Mr. Ramesh Khanna at Verna Police Station, Verna, Salcete-Goa for having allegedly involved in rape case, their services came to be terminated w.e.f. 14-06-2005. He contended that the termination of his service is therefore malafide, vindictive and by way of law victimization being illegal and unjustified. The Workman also produced on record a copy of the complaint dated 22-03-2005 (Exb. W/3) lodged against Shri Ramesh Khanna, the Director of the Employer Company for having allegedly having involved in rape case, in support of its oral evidence. On the contrary, the Employer in its Written Statement pleaded that the Workman alongwith others had filed a false, defamative and mischievous complaint against the owner at Verna Police Station at the behest of Mr. Joe Pereira, tarnishing the image of the owner of the said bungalow and also the Director of the Employer Company, the owner lost confidence in them. The Employer has however failed to prove the motivation behind the aforesaid allegation made against the Workman by leading any evidence of what-so-ever nature. The sole witness of the Employer and Power of Attorney, Shri S. V. Balaram in his Affidavit-in-Evidence deposed that the Workman alongwith other workers were not performing their duties and therefore the Owner lost confidence in them, their services were terminated. Thus there appears to be variation between the pleadings and the oral evidence of the Employer.

39. The evidence on record indicates that though the Employer terminated the services of the Workman on account of alleged loss of confidence in him, it has failed to investigate the alleged misconduct on the part of the Workman by issuing him a Show Cause Notice or charge-sheet or by conducting an enquiry against him in consonance with the principles of natural justice and fair play, prior to termination of services of the Workman, thereby giving him an opportunity of being heard. The burden to prove the misconduct is on the Employer. The Employer neither held any enquiry nor made proper request in its Written Statement filed in the present proceedings to prove the alleged charges of misconduct before this Court as well as to justify its action of termination of service of the Workman without issuing him any charge-sheet or holding any enquiry against him. Thus, it appears that the services of the Workman have been terminated by way of punishment without holding any enquiry and the Workman has been held guilty of charges of misconduct. The said Termination Order at Exb. W/2 is punitive in nature as it points out to an adverse facet in the Workman's character. The said Order of Termination at Exb. W/2 is tainted by malafides. Thus, the termination order issued to the Workman at Exb. W/2 is illegal and unjustified being in violation of the principles of natural justice. The Issue No. 3 is therefore answered in the affirmative.

40. *Issue No. 4:* The Employer Company in its Written Statement filed in the present proceedings by way of preliminary objections contended that the place where the Party I was working cannot be constituted as a commercial or industrial establishment or a factory or an establishment under the Shops and Establishment Act as at no point of time there were any industrial, commercial, manufacturing or any other business activities were carried out at the said residential bungalow. The Employer contended that the Party I working at the said residential bungalow is a domestic servant and cannot be constituted as "Workman" within the meaning of section 2(s) of the I. D. Act, 1947.

41. While deciding the issue No.1 hereinabove, I have come to the conclusion and held that the Party I is a 'Workman' within the meaning of Section 2(s) of the I. D. Act, 1947. The Employer, has however did not dispute that it is not an "industry" within the meaning of Section 2(s) of the I.D. Act, 1947. Hence, the dispute raised by the Workman against the Employer pertaining to his non-employment is an "industrial dispute"

within the meaning of Section 2 (k) of the I.D. Act, 1947. In the circumstances this court has every jurisdiction to adjudicate the said reference. Thus the dispute referred by the appropriate government is valid.

42. The Employer, by way of preliminary objection further contended that what was agitated by the Workman before the Conciliation Officer is totally different than what has been referred before this Hon'ble Tribunal for adjudication and that the Workman having accepted all the dues paid by them, nothing remains in the matter and no dispute of what-so-ever exists. The Employer has failed to prove its aforesaid allegations by any cogent evidence. On the contrary, the Workman has produced on record a copy of his Demand Letter dated 21st June, 2005 (Exb. W/5) addressed to the Employer as well as a copy of Report on Failure on conciliation proceedings dated 24th April, 2006 (Exb. W/9) in support of his oral evidence. The aforesaid as well as documentary evidence on record clearly established that the present Order of Reference issued by the Government of Goa is based on the dispute raised by the Workman before the Conciliation Officer. Hence I do not find any merits in the submissions of Ld. Adv. Shri M. S. Bandodkar, appearing for the Employer that what was agitated by the Workman before the Conciliation Officer is totally different than what has been referred before this Hon'ble Tribunal for adjudication and that the Workman having accepted all the dues paid by them nothing remains in the matter and no dispute of what-so-ever exists. Hence it is held that the Employer Company failed to prove that the present reference issued by the Government of Goa is bad-in-law. The issue No. 4 is therefore answered in the negative.

43. *Issue No. 5:* In the case of **M/s Reetu Marbles v/s Prabhakant Shukla and Anr., reported in 2010 (124) FLR 72**, the Hon'ble Supreme Court of India has held that *"Although direction to pay full back wages on a declaration that the order of termination was invalid used to be the usual result but now, with the passage of time, a pragmatic view of the matter is being taken up by the court realizing that an industry may not be compelled to pay to the workman for the period during which he apparently contributed little or nothing at all to it and/or for a period that was spent unproductively as a result whereof the employer would be compelled to go back to a situation which prevailed many years ago, namely, when the workman was retrenched"*.

44. The Hon'ble Supreme Court of India in its case of **Senior Suptd. Telegraph (Traffic), Bhopal v/s Santosh Kumar Seal & ors. reported in 2010 III CLR 17** it has been held that *"it is very well settled principle that relief by way of re-instatement with back wages, is not automatic, even if termination of workman is illegal or in contravention of prescribed procedure"*.

45. **The Hon'ble Supreme Court of India in its another case of Jagbir Singh v/s Haryana State Agriculture Marketing Board & anr. reported in 2009 III CLR 628** it has been held that *"it is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of re-instatement with full back wages would ordinarily follow. However, in the recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of re-instatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee in contravention of the prescribed procedure, compensation instead of re-instatement has been held to meet the ends of justice"*.

46. Thus, the Hon'ble Apex Court in its various series of decisions has consistently held that a relief of reinstatement with full back wages and consequential benefits is not automatic, even if the termination of the Workman is illegal or in contravention of prescribed procedures. I am bound by the precedent laid down by the Hon'ble Apex Court in its aforesaid decisions.

47. While deciding the issue No. 3 hereinabove, I have come to the conclusion and held that the termination of service of the Workman w.e.f. 14-06-2005 by the Employer is illegal and unjustified.

The evidence on record indicates that the Workman was working with the Employer at least from the year 1999 till the date of his termination of services w. e. f. 14-06-2005 as a 'Gardener'. The evidence on record indicates that the Party I was paid monthly salary/wages of Rs. 2,350/- at the time of termination of his services. The evidence on record indicates that all the earlier Directors of the Employer Company have resigned as its Directors and new Directors have been admitted. The evidence on record indicates that the Workman has lodged a false and baseless complaint against one of the Directors of the Employer for having allegedly involved in rape

case. Thus taking into consideration the facts and circumstances of the present case, I am of the opinion that a payment of lumpsum compensation of Rs.1,00,000/- (Rupees one lakh only) to the Workman would meet the ends of justice instead of re-instatement with back wages and continuity in service.

In view of the above discussions and with regards to the facts and circumstances of the case I proceed to pass the following order:

ORDER

1. It is held that the Party I, Shri Natividade Fernandes, Gardener, is a "Workman" within the meaning of Sec. 2 (s) of the I. D. Act, 1947 (Central Act 14 of 1947).
2. It is further held that the severance of the Workman and Employer relationship between Shri Natividade Fernandes and the Management of M/s Ramesh Hotels & Resorts Pvt. Limited, Majorda, Salcete, Goa with effect from 14-06-2005, is on account of termination of services of Shri Natividade Fernandes.
3. It is further held that the termination of services of Shri Natividade Fernandes w.e.f. 14-06-2005 by the Management of M/s. Ramesh Hotels & Resorts Pvt. Limited, Majorda, Salcete, Goa is illegal and unjustified.
4. The Management of M/s. Ramesh Hotels & Resorts Pvt. Limited, Majorda, Salcete, Goa is ordered to pay to the Workman Shri Natividade Fernandes, Gardener a lumpsum compensation of Rs. 1,00,000/- (Rupees one lakh only).
5. No order as to costs.
6. Inform the Government accordingly.

Sd/-
(Suresh N. Narulkar),
Presiding Officer,
Labour Court-II.

◆◆◆
Department of Personnel

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Order

File No. 15/6/2003-PER/(Part) Vol 1/4131
Read: Order No. 15/6/2003-PER (Part) dated
03-11-2010.

Order No. 15/6/2003-PER (Part) dated 06-12-2011.

Order No. 15/6/2003-PER (Part) Vol. 1 dated 06-07-2012.

Order No. 15/6/2003-PER (Part) Vol. 1 dated 15-11-2012.

Order No. 15/6/2003-PER (Part) dated 30-05-2012.

Corrigendum No. 15/6/2003-PER(Part) dated 30-05-2012.

Corrigendum No. 15/6/2003-PER(Part) dated 16-08-2012.

Order No. 15/6/2003-PER(Part) Vol 1 dated 01-07-2013.

Order No. 15/6/2003-PER(Part) Vol 1 dated 14-02-2014.

The ad hoc promotion of the following officers in the Cadre of Mamlatdar/Joint Mamlatdar/Assistant Director of Civil Supplies is hereby extended for further period indicated against their names or till the posts are filled on regular basis, whichever is earlier:-

Sr. No.	Name of the Officer	Ad-hoc promotion extended	
		From	To
1.	Shri Shailendra J. Desai	24-04-2014	23-04-2015.
2.	Ms. Priya S. Samant	24-04-2014	23-04-2015.
3.	Ms. Archana M. Faterpekar	24-04-2014	23-04-2015.

This issues with the approval of Goa Public Service Commission conveyed vide their letter No. COM/II/11/42(2)/2012/491 dated 19-06-2014.

By order and in the name of the Governor of Goa.

R. Aga, Under Secretary (Personnel-II).

Porvorim, 1st July, 2014.

Order

File No. 6/13/2013-PER/4102

The ad hoc appointment of the following officers in Senior Scale of Goa Civil Service is extended further for the period indicated against each or till the appointment is made on regular basis, whichever is earlier:-

Sr. No.	Name of Officer	Ad hoc appointment extended upto
1	2	3
1.	Shri Srinet N. Kotwale	13-04-2014 to 12-04-2015
2.	Shri Jayant G. Tari	13-04-2014 to 12-04-2015

1	2	3
3.	Shri Levinson J. Martins	13-04-2014 to 12-04-2015
4.	Shri K. V. Signapurker	18-05-2014 to 17-05-2015
5.	Shri Damodar Morajkar	23-05-2014 to 22-05-2015

This issues with the approval of GPSC conveyed vide their letter No. COM/II/11/42(3)/2012/492 dated 20-06-2014.

By order and in the name of the Governor of Goa.

R. Aga, Under Secretary (Personnel-II).

Porvorim, 30th June, 2014.

Order

File No. 6/13/2013-PER/4178

The ad hoc appointment of the following officers in Senior Scale of Goa Civil Service is extended further for the period indicated against each or till the appointment is made on regular basis, whichever is earlier:-

Sr. No.	Name of the Officer	Ad hoc promotion extended upto
1	2	3
1.	Shri Sunil P. Masurkar	01-03-2014 to 28-02-2015

This issues with the approval of GPSC conveyed vide their letter No. COM/II/11/42(3)/2012/630 dated 03-07-2014.

By order and in the name of the Governor of Goa.

R. Aga, Under Secretary (Personnel-II).

Porvorim, 4th July, 2014.

Corrigendum

No. 12/1/2013-PER(A)/4154

Read: 1) Order No. 12/1/2013-PER(A) dated 20-06-2014.

2) Addendum No. 12/1/2013-PER(A) dated 23-06-2014.

In the second para of the above referred order dated 20-06-2014, the word promotion mentioned therein shall be substituted to read as "probation".

R. Aga, Under Secretary (PER-II).

Porvorim, 3rd July, 2014.

Department of Revenue

Order

No. 23/21/2012-RD

Whereas, the Government of Goa, vide Notification No. 23/21/2012-RD dated 24-01-2013, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 45 dated 07-02-2013, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for conservation Reserve at Galgibag Poigunim for Turtle Nesting (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5-A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/21/2012-RD dated 21-04-2014, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 4 dated 24-04-2014, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, South Goa District, Margao-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).
Porvorim, 8th July, 2014.

Order

No. 23/11/2013-RD

Whereas, the Government of Goa, vide Notification No. 23/11/2013-RD dated 21-03-2013, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 52 dated 28-03-2013, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of

road at Thonwado, Bhimwado, Gonsua in Betalbatim village (addl. area) of Salcete Taluka (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (2) of Section 5-A of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 23/11/2013-RD dated 21-04-2014, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 4 dated 24-04-2014, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, South Goa District, Margao-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-II).
Porvorim, 8th July, 2014.

Order

No. 22/36/2013-RD

Whereas, the Government of Goa, vide Notification No. 22/36/2013-RD dated 02-12-2013, issued under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (Act 1 of 1894) (hereinafter referred to as the "said Act"), and published in the Official Gazette, Series II No. 39 on pages 923 & 924 dated 31-12-2013, notified that the land specified in the Schedule thereof (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for construction of Solid Waste Management Facility in Cacora Village of Quepem Taluka (hereinafter referred to as the "said public purpose");

And whereas, the Government of Goa, considered the report made by the Collector under sub-section (1) of Section 17 of the said Act and on being satisfied that the said land is needed for the said public purpose, vide Notification No. 22/36/2013-RD dated 21-02-2014, issued under Section 6 of the said Act, and published in the Official Gazette, Series II No. 48 on pages 1274 & 1275 dated 27-02-2014, declared that the said land is required for the said public purpose.

Now, therefore, in exercise of the powers conferred by Section 7 of the Land Acquisition Act, 1894 (Act 1 of 1894), the Government of Goa hereby directs the Collector, South Goa District, Margao-Goa to take the order for acquisition of the said land.

By order and in the name of the Governor of Goa.

Anju S. Kerkar, Under Secretary (Revenue-I) (Link).

Porvorim, 7th July, 2014.



Department of Women & Child
Development

Directorate of Women & Child Development

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Order

F. No. 1-229-2003/DW&CD/Sectt. Cell/part/07078

Read: Order No. 1-229-2003-DW&CD/Sectt.Cell/
/Part/7822 dated 4-12-2013.

Government is pleased to extend ad hoc promotion of Smt. Mala Gadkar, Child Development Project Officer to the post of District Programme Officer (Group 'B', Gazetted) in the Pay Band II ` 9,300-34,800+GP ` 4,800/- w.e.f. 6th July, 2014 for further period of six months or till the post is filled on regular basis whichever is earlier.

The expenditure in respect of the above post shall be debited to the Budget Head of Account "2235—Social Security and Welfare; 102—Child Welfare; 03—Integrated Child Development Scheme including Health Cover (plan) (A); 01—Salaries.

The above ad hoc promotion shall not bestow any substantive right for regular appointment.

By order and in the name of the Governor of Goa.

Vikas S. N. Gaunekar, Director & ex officio Joint Secretary (Women & Child Development).

Panaji, 14th July, 2014.

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